



CITY OF SALEM

Written Testimony

City Council

555 Liberty St SE
Salem, OR 97301

Monday, January 22, 2018

6:00 PM

Council Chambers

4.a. [18-32](#) Formation of Lone Oak Road Reimbursement District.

Ward(s): Ward 4
Councilor(s): McCoid
Neighborhood(s): South Gateway

Recommendation: Adopt Resolution No. 2018-08, approving the formation of Lone Oak Road Reimbursement District to collect funds for reimbursement of the developer's costs associated with constructing Lone Oak Road SE between Muirfield Avenue SE and Rees Hill Road SE.

Attachments: [Attachment1 Vicinity Map Oak Ridge Estates](#)
[Attachment2 City Engineer-Approved Cost Estimate](#)
[Attachment3 UGA Development Permit No. 07-5](#)
[Attachment4 Subdivision Review Committee decision No. 08-4](#)
[Attachment5 Planning Commission Decision for Subdivision No. 15-04](#)
[Attachment6 Lone Oak Reimburse District Resolution 2018-08](#)
[Exhibit 1 Reimbursement District Application](#)
[Exhibit 2 DistrictMap](#)
[Exhibit 3 List of Tax Lots](#)
[Written Testimony - Tenney](#)
[Written Testimony - Grice](#)
[Written Testimony - Quady](#)
[Written Testimony - Strawn / Reyes](#)
[Written Testimony - Hines](#)
[Written Testimony - Elkins](#)

Add - Written Testimony

6.b. [18-10](#) Planning Commission Decision - Comprehensive Plan Change / Zone Change Case No. CPC-ZC17-07 - OVF Properties, LLC (Louis Fowler) - 1200 Block of Riverbend Road NW - A consolidated application to change the Comprehensive Plan Map designation and zoning from "Single-Family Residential" to "Commercial" with approximately 2.6 acres zoned CO (Commercial Office) and approximately 1.3 acres zoned CR (Retail Commercial) for a future mixed-use multi-family and neighborhood commercial development.

Ward(s): 8
Councilor(s): Lewis
Neighborhood(s): West Salem

Recommendation: Information Only.

Attachments: [Land Use Decision CPC-ZC17-07](#)
[Written Testimony - Anderson](#)

Add- Written Comment

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JAN 22 2018

CITY OF SALEM
PUBLIC WORKS

January 22, 2018

Public Works Development Services
Section 555 Liberty Street
SE Salem, OR 97301

Re: Proposed Lone Oak Road Reimbursement District - January 22, 2018 Hearing Date (Our written comment)

Dear Mayor, Council, interested parties:

\$5,600,000 = Roadway Crossing over Jory Creek including bridge construction!

Again. See reference costs in proposal!

\$5,600,000=Roadway Crossing over Jory Creek including bridge construction!

Also, see in proposal: CREEKSIDE (GOLF COURSE) OF 140 ACRES WITH AT LEAST 210 LOTS IS INCLUDED IN THE PROPOSED REIMBURSEMENT DISTRICT!

~~Hello. We live in the "East Subarea" of the proposal. We do not object to the use of a reimbursement districts. We believe however they should be well thought out and fair. We do not favor this proposal.~~

We believe it would be a mistake and unfair to create a reimbursement district with components that are too speculative.

The golf course inclusion of 140 acres and 210 lots in the proposed reimbursement district appears too speculative!

Whether or not the reimbursement district is approved as proposed, the decades long concerns with dumping city traffic on poor Rees Hill will continue. We suspect that's probably because Rees Hill suffers from two government entities that seem unable to coordinate on the edge of a UGB.

Where would Boone Rd be today without a Kuebler Rd? Mildred Rd, Lone Oak Rd so far appear to have been jobs well done. But with Rees Hill, we plead for leadership from both government entities. So, even with **all that money** this proposal commits and finances, we suspect the concerns with Rees Hill go on.

Since traffic needs to flow to Rees Hill, **we favor a modification to the proposed reimbursement district.** What's needed is further work applied to apportionment of valid and various construction costs. And this needs to be expedited for stuck south side owners/developers needing aid and services inside a UGB. That's in the public interest! We do see potential in forming a reimbursement district being either much larger or perhaps being much smaller too.

If only Rees Hill were 100% in the city! Build the South Extension for \$1,800,000 and spend a million or two on Rees Hill funded by a modified reimbursement district. Nope. Can't even do that? Two entities?

Bummer.

1/2

For now, to get things moving, we suggest a smaller reimbursement district aimed at smaller targets. We need a district that keeps us financially free from the business of "converting golf courses to city lots". How about approving work directed solely on the south link. Giving relief to Devon St.

Using the current proposals costs, and just doing the South Linking roadway improvements from the intersection of Sahalee CT SE and Lone Oak RD SE south to Rees Hill Rd, its reported to be about \$1.8 million:

South link.....\$1,800,000

Minus Est SDC..\$300,000

Total Cost= \$1,500,000

Lots for a modified area: (without golf course)

West 360 lots

Central 225 lots

East 120 lots

Total lots= 705

Using no weighting or judgements of "share", and, to simplify to show an example of a smaller and limited debt structured reimbursement district might come out:

West, Central, and East apportionment cost per lot= \$2127

Thank you for the opportunity to submit a written comment.

Steve and Debbie Quady

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JAN 22 2018

CITY OF SALEM
PUBLIC WORKS

January 18, 2018

Re: Lone Oak Road Reimbursement District

Hearing date: January 22, 2018

To the Public Works Director and Members of the City Council,

I and my wife are the owners of 1.5 acres within the proposed Lone Oak Reimbursement District; our address is 6685 Trillium Lane SE. I am a tenured professor at Willamette University, and my wife is a speech-language pathologist and bilingual specialist in the Salem-Keizer School District. We are property owners in both the city and here in the county who gladly pay our property taxes and who always vote in support of measures that fund education, public health, and public safety. We are, to put it simply, believers in the public commons, in paying our share, and in recognizing that government needs resources to pay for collective goods.

But this reimbursement district is not a question of the public good; it seems to be an effort by one property owner to use city procedures to induce other property owners to supplement their development gains when they develop their property. **We vehemently object to the creation of this reimbursement district.**

In the notice we received, the "Summary of Process" states that a reimbursement district can be formed when "a developer constructs improvements that benefit neighboring properties." By this standard, the proposed district is fundamentally backward on two counts. First, **there will be no benefit – zero – to us and to most of the property owners around us who are included in the proposed district.** We will never use this road to get anywhere we don't already travel using county and city roads to get to; to do so would be less direct and slower, not more direct nor faster. Moreover, it will bring no additional commerce or other benefits into our part of town. And, we have already paid for these existing roads, via our tax dollars.

Second, **all of the property owners who might benefit from this – those that live on Sahalee Court, on Lone Oak Rd SE, and on Augusta St SE – are curiously drawn outside of the reimbursement district!!!** All of these properties have a single access road – Devon Ave. SE – and would be the proximate property owners who would have some benefit from the continuation of Loan Oak Road creating a second, northward access road. Why are they not included in the proposed reimbursement district?

The proposal is also illogical because the road extension is not necessary for the development of the property in question. I can see why this will be a *convenience* to the developer (and will likely increase the money the developer makes from it.) But the property to be developed has access to Sahalee Court. If they can't afford to develop the roads they want themselves, they can still develop their land.

Finally, I trust that this is a detail that would not be accidentally overlooked, but I would question whether the City of Salem has the authority to impose such a district onto county residents. Is this actually even legal?

This proposed Reimbursement District is simply unfair to the people it will include. Please do the right thing and reject this proposal.

Very sincerely,



Kelley Strawn and Alejandra Reyes
6685 Trillium Lane SE
Salem, OR 97306
503-581-0459

Amy Johnson

From: Brian Hines <brianhines1@gmail.com>
Sent: Monday, January 22, 2018 3:12 PM
To: citycouncil
Cc: CityRecorder
Subject: Testimony about Lone Oak Road reimbursement district

I just finished a blog post about this item on tonight's City Council agenda.

<http://hinessight.blogs.com/salempoliticalsnark/2018/01/city-council-poised-to-make-public-pay-for-improvements-not-developers.html>

I've copied it in below. Please consider this advance testimony for the public hearing on the Lone Oak Road reimbursement district.

City Council poised to make public pay for improvements, not Larry Tokarski

Tonight the Salem City Council is having a public hearing on forming a [Lone Oak Road Reimbursement District](#) in the Creekside area.

Basically, as I understand it, a developer (Garrett and Alice Berndt) has requested that buyers and owners of lots in the area be saddled with a total of \$7,347,000 in fees to pay for needed improvements to an extension of Lone Oak Road.

This is a complicated subject, and I don't pretend to be familiar with all of the details surrounding this issue, which has been festering for many years.

Arguments have gone back and forth about who should be responsible for road improvements in the area, which is in part a safety issue, since some current and proposed home sites only are served by one road, so if it were to be inaccessible emergency vehicles can't reach those homes.

What's most interesting to me is that Larry Tokarski was the developer of the Creekside neighborhood, and back in the early 1990's he was required to pay for improvements to Lone Oak Road. See:

[Download UGA90-09Pages1-43](#)

Here's a screenshot of one of the pages in that document.

April 10, 1991



Larry Tokarski
615 Commercial NE
Salem, OR 97301

RE: Urban Growth Permit 90-9
SUNNYSIDE, MILDRED, LONE OAK

Dear Mr Tokarski:

At their meeting of April 8, 1991, the City Council considered Resolution No 91-35 adopting the preliminary declaration for Urban Growth Area Permit No. 90-9UG, for property located in the area of SUNNYSIDE ROAD, MILDRED LANE AND LONE OAK ROAD.

It was the action of the Council to approve the resolution. A copy is enclosed. The action is effective as of the passage date.

If you have any further questions, you may contact the Planning Division, 588-6173.

My understanding is that in 2003 the City of Salem and Tokarski had an agreement that after 300 homes were built in the Creekside development, the improvements to Lone Oak Road would be made by Tokarski. However, as noted below, in 2007 these improvements were put on hold.

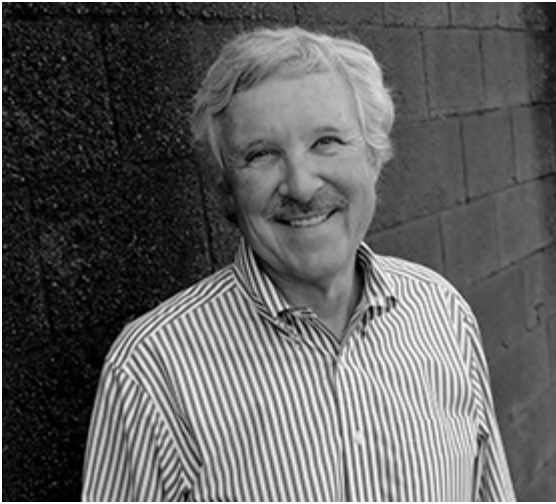
At two City Council meetings last year (March 27 and June 26), this issue came up for discussion. I've made a short video of comments made by councilors Steve McCoid, who represents the Creekside area, and Chris Hoy.

[video not included, but here is a link to it: <https://www.youtube.com/watch?v=Wmjh-oqGXuA&feature=youtu.be>]

It's sort of surprising that in both these comments, and also elsewhere in discussion of the issue, I never heard anyone mention the name of the developer. I'm pretty sure Larry Tokarski is the developer being referred to, hence I titled the video "Salem City Council on Tokarski development screw-up."

Chris Fry, another Salem developer, spoke about this issue during the public comment period at the March 27, 2017 City Council meeting. Following Fry's remarks about the Lone Oak bridge, which supposedly would cost around \$6 million, Public Works Director Peter Fernandez said: "The project was the responsibility of the Creekside developer and over time they simply never built it."

Now, unless there is a statute of limitations on commitments by developers to build roads and bridges needed for their development, it sure seems like Larry Tokarski and his firm, Mountain West Investment, should be the ones on the hook for the Lone Oak Road improvements.



What makes this issue even more interesting politically is that Tokarski is the biggest contributor to conservative causes in Salem, people running for office and ballot measures. Last April Salem Weekly ran a story, "[The Man Whose Money Talks in Salem.](#)"

Larry Tokarski began his real estate career in Salem in 1973. Since then he has founded and managed Mountain West Investment Corporation through which he has influenced the development and building of over a billion dollars of real estate. This includes over 1,000,000 square feet of commercial and residential facilities and more than 30 subdivisions. Tokarski has also been involved in the development and building of 47 retirement communities in Oregon, Washington, Idaho, Colorado, and Nevada.

Not a Salem resident (Tokarski lives in Wilsonville) the developer has invested a minimum of three-quarters of a million dollars in local political campaigns since 2009.

For example, Mountain West Investment Corp contributed 75 percent of the Salem Area Chamber of Commerce's Build Jobs PAC funding for the May 2016 election. Below you see, Tokarski paid \$10,000 to support the campaigns opposing progressive candidates for spring 2016 Salem City Council election, Sally Cook and Cara Kaser.

Well, someone who has been involved in over a billion dollars in real estate apparently should be able to pay for about \$7 million in road improvements for the Creekside area, especially since this was agreed to by Tokarski.

Before the City Council asks another developer to pay for those improvements through a Lone Oak Road Reimbursement District, it sure seems like the agreement(s) made by Tokarski should be carefully examined. I didn't see any sign of this in tonight's [staff report](#), since the history of the Lone Oak Road improvements only begins with a 2008 requirement that Garrett and Alice Berndt make those improvements.

Somewhere along the line Tokarski appears to have been relieved of the necessity of making those promised improvements. An earlier 2017 staff report does detail how the "Creekside developer" (Tokarski) failed to complete the improvements:

Lone Oak Road SE is functionally-classified as a collector street in the Salem Transportation System Plan. From its northern terminus at Browning Avenue SE, Lone Oak Road SE runs north-south parallel to, and roughly mid-point, between Liberty Road SE on the west and Sunnyside Road SE to the east, to its current southern terminus at Jory Creek. Attachment 6 contains photos taken on April 6, 2017, at various locations along the missing segment of Lone Oak Road SE.

In 2007, the Creekside developer initiated construction of the missing segment of Lone Oak Road. Construction plans were prepared by a private engineering consultant and permits were issued by the City. A box culvert was installed over Jory Creek and some preliminary earth grading along the alignment of Lone Oak Road was completed. Work on the project was halted by the developer and no additional work has occurred since 2007. At present, there is no timetable for constructing the bridge and remaining sections of Lone Oak Road SE.

So as Councilor McCoid asked in the video above, who let Tokarski off the hook for constructing the Jory Creek bridge and remaining sections of Lone Oak Road? And could it have been someone who benefitted from Tokarski's political contributions?

Brian Hines
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<http://twitter.com/oregonbrian>
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James & Karen Elkins
928 Elkins Way SE
Salem, OR 97306

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JAN 22 2018

CITY OF SALEM
CITY RECORDER

January 22, 2018

City of Salem, Public Works Development Services Section
City Hall, Room 325
555 Liberty St. SE
Salem, Oregon 97301

RE: **Reimbursement District:** Lone Oak Road Reimbursement District
AMANDA Seq. No: 17-116147-DO
Hearing Date: January 22, 2018
6:30 pm

To Whom It May Concern:

We are writing to express our concerns whether establishing a reimbursement district for Lone Oak Road is in the public's best interest. It is proposed to establish a reimbursement district for the development of the road/bridge on Lone Oak from Muirfield to Rees Hill Rd. Our properties are located at 928 Elkins Way / 6700 Devon Ave. / 6995 Devon Ave. / 922 Rees Hill / 929 Rees Hill, all of which are within the proposed district. We also have several family members that reside on Rees Hill that would be affected by the newly placed intersection at Lone Oak/Rees Hill.

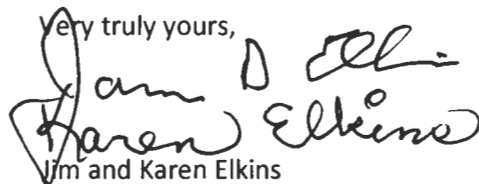
We would first like to address how irresponsible it would be to put an access point of Lone Oak at the proposed position on Rees Hill Rd. This would pose an extreme traffic hazard. The hilltop in which the proposed intersection of Lone Oak & Rees Hill is located has a severe limited view. Adding an intersection at the proposed area would recklessly endanger every driver who traveled Rees Hill Rd. According to Marion County Driveway Access Construction Standards, a required minimum sight distance on a 45 mph road is 400 feet. The property to the West of the proposed intersection of Lone Oak and Rees Hill, in which the West side of the property is just over the crest of the hill is 208' in length. This is half of the minimum required sight distance. Reducing the speed limit to 20 mph to accommodate this short sight distance is unreasonable, and changing the elevation of the hill would be very costly. Neither is a good solution for a poorly placed access to the proposed development.

Secondly, any additional influx of traffic on Rees Hill would only add to the problem of overburdening an overused county road that is currently in disrepair and in desperate need of improvements. Current traffic from the Southernmost portion of the Creekside Development has taken traffic beyond the reasonable capacity of the existing county road. The sole route to main arteries of travel is via Rees Hill Rd. Rees Hill Road is one of two

weight restricted roads in Marion County. The section of Rees Hill West of Devon has a weight limit due to the fact that it is a slurry sealed road, not actually paved. The road is in complete disrepair with the current volume of traffic. Adding traffic from additional development and a thoroughfare to the flow of traffic would be very detrimental to the quality of the road surface causing further deterioration and greater safety hazard to all who travel Rees Hill Rd.

Finally, it is not in the public's best interest to establish a reimbursement district. It would certainly provide the developer much needed reimbursements, but that is not in the best interest of the surrounding properties within the proposed reimbursement district. Prior to development of the Southernmost Creekside properties, it was agreed by the developer, city and neighborhood association that a limited number of residence could be built before a triggering factor to require the completion of the bridge on Lone Oak, which is within the scope of this proposed development. This would have connected the newly developed Southern portion of the development to the rest of Creekside, as well as providing a much needed second route of ingress/egress to that neighborhood. After speaking with Steven McCoid, Ward 4 City Councilor, it is our understanding that due to the recession and lack of adequate planning that there is no longer a contingency to build the bridge. *The homes that are already developed, and were agreed upon to take responsibility for funding the bridge have not.* These homes, which sensibly should be included within the reimbursement district would be the most likely to take advantage of using the proposed bridge and newly improved access way. What is the plan for financial accountability for this population? It would certainly be fair to the developer to include a proportional reimbursement from this neighborhood. All other properties to the South of this development, which are mostly single family dwellings on acreages within Marion County (not annexed into the city), the newest of which was built in the 1970's, have been using Devon Avenue and Rees Hill since the roads were put into existence. There is no gain to the existing acreage properties to be included in the calculation for a fair apportionment of the cost. No amount would be considered "fair". Instead, put the responsibility on those that would logically use the road, the new developments.

Thank you for considering and addressing our concerns.

Very truly yours,

Jim and Karen Elkins

See attachment:

Google Maps view of proposed intersection Lone Oak / Rees Hill



Marion County Driveway Access Construction Standards
Minimum sight distance requirements:
400' @ 45mph

Proposed intersection
Lone Oak on Rees Hill

Information Item 6.b. 18-10
Planning Commission Decision CPC-ZC17-07
1200 Block of River Bend Road NW – 97304

The Salem Planning Commission decision regarding River Bend does not address State of Oregon Land Use Planning Goal 12 – Transportation and SRC 220.005(f)(3)(B) negative impacts to the transportation system are mitigated adequately.

This action (an application to change the Comprehensive Plan Map including a zoning map change) under OAR 660-012-0060 (1) requires the local government (City of Salem) to make specific findings. This has not been done. The record does not include that the local government has made findings per OAR 660-012-0060 (1)(a), (1)(b), (1)(c) (A), (1)(c) (B), nor (1)(c) (C).

As the Oregon Department of Transportation (ODOT) has commissioned studies for this transportation facility (HWY 221 Wallace Road NW) affected by this propose action, and ODOT has reported in 2012 that this affected transportation facility does not, and is projected to not, meet performance standards identified in the Salem TSP or Comprehensive Plan OAR 660-012-0060 (1)(c)(C); said transportation facility is and will be significantly impacted by this proposed action and decision of the Salem Planning Commission.

This Salem Planning Commission decision does not make findings on how the proposed action to allow 1,083 vehicles per day from this site onto an existing transportation facility will meet performance standards and not have a significant impact. The reliance on a trip cap of 1,083 vehicles per day is inadequate in and of itself; it does not meet the findings requirement required under OAR 660-012-0060 (1), nor the mitigation requirements of OAR 660-012-0060 (2) and SRC 220.005(f)(3)(B). In fact, the addition of vehicle trips onto a transportation facility not meeting performance standards is a significant impact and must be mitigated [OAR 660-012-0060 (1) and OAR 660-012-0060 (2) and SRC 220.005(f)(3)(B)]. Furthermore, this decision does not address how these 1,083 vehicles per day will affect a change to a functional classification of a planned transportation facility OAR 660-012-0060 (1)(a), for example Marine Drive.

This decision (and subsequent actions) will significantly affect the transportation facility, and per OAR 660-012-0060 (1), the local government “must put in place measures as provided in section (2) of this rule” to mitigate impacts. No such analysis, action, or findings are part of this Salem Planning Commission decision.

Therefore, the decision of the Salem Planning Commission in this matter is requested to be called up by the Salem City Council because:

- Its failure to comply with State of Oregon Land Use Planning Goal 12 – Transportation, specifically OAR-660-012-0060 (1) and OAR 660-012-0060 (2)
- SRC 220.005(f)(3)(B) negative impacts to the transportation system are mitigated adequately

Respectfully;

Steven A. Anderson